

1 ROB BONTA, State Bar No. 202668
Attorney General of California
2 GIAM M. NGUYEN, State Bar No. 229236
Supervising Deputy Attorney General
3 ALEXANDRIA FAURA, State Bar No. 346563
Deputy Attorney General
4 300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
5 Telephone: (213) 269-6227
Fax: (916) 761-3641
6 E-mail: Alexandria.Faura@doj.ca.gov
Attorneys for Defendant M. Burkhart
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10
11

12 **IMMANUEL PRICE,**
13

Plaintiff,

14 v.
15

16 **OFFICER BURKHART,**
17

Defendant.
18

Case No.

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(A) (FEDERAL
QUESTION); REQUEST FOR
SCREENING OF THE COMPLAINT
PURSUANT TO 28 U.S.C. § 1915A**

Action Filed: July 7, 2022

19 **TO THE COURT AND PLAINTIFF IMMANUEL PRICE, IN PRO SE:**

20 **PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446,
21 Defendant M. Burkhart hereby removes this action from the Superior Court of California,
22 County of Sacramento, to the United States District Court for the Eastern District of California.

23 ///

24 ///

25 ///

THE REMOVED ACTION

1
2 1. On July 7, 2022, the removed civil action titled *Immanuel Price v. Officer Burkhardt*,
3 Case No. 34-2022-00329112, was commenced in the Superior Court of California, County of
4 Sacramento. In accordance with 28 U.S.C. § 1446(a), Defendant submits copies of “all
5 processes, pleadings, and orders served upon” Defendant as “**Defendant’s Exhibit A.**”

6 2. In the Complaint, Plaintiff Immanuel Price, an inmate in the custody of the California
7 Department of Corrections and Rehabilitation (“CDCR”) and presently incarcerated at Salinas
8 Valley State Prison, has named Defendant M. Burkhardt, Correctional Officer at California State
9 Prison, Sacramento (“CSP-SAC”).

10 3. In the Complaint, Plaintiff alleges that Defendant slammed Plaintiff’s arms and wrists
11 against the tray slot in the cell door while attempting to cuff Plaintiff for escort to a holding cage.
12 Plaintiff claims Defendant did so in retaliation after Plaintiff repeatedly told Defendant of
13 Plaintiff’s medical accommodation requiring him to be cuffed in front of his body with waist
14 chains. Plaintiff asserts he was engaged in “constitutionally protected activity” when he notified
15 Defendant of his waist chain accommodation and Defendant used excessive and unnecessary
16 force in retaliation to Plaintiff’s exercise of this protected activity. Plaintiff alleges Defendant’s
17 use of force would “deter a person of ordinary firmness from engaging in that protected activity.”

18 4. The Complaint asserts only one cause of action for retaliation against Defendant.¹

19 **STATEMENT OF JURISDICTION**

20 5. This Court has original jurisdiction over “all civil actions arising under the
21 Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. This civil action
22 references a claim of retaliation in response to a “constitutionally protected activity,” explicitly
23 brought under the First Amendment to the United States Constitution or related to an alleged
24 violation of the First Amendment. Therefore, removal is permitted under the provisions of 28
25 U.S.C. § 1441(a) based on federal question jurisdiction.

26
27
28 ¹ By filing this Notice of Removal, Defendant does not waive any defenses nor concede
that the Complaint states a viable claim for relief.

REMOVAL IS TIMELY

6. Service of the summons and Complaint on Defendant was effectuated on November 29, 2022, via personal service from the Sacramento County Sheriff's Department, received by the litigation office at CSP-SAC. A true and correct copy of an email from the litigation office at CSP-SAC, indicating service on Defendant is attached hereto as **"Defendant's Exhibit B."**

7. Because the Complaint was first served on Defendant November 29, 2022, this Notice of Removal is timely under 28 U.S.C. § 1446(b)(1).

VENUE

8. Venue is proper in the United States District Court for the Eastern District of California, because it is the district embracing the Superior Court of California, County of Sacramento, in which the removed action is pending. 28 U.S.C. § 1441(a).

UNSERVED DEFENDANTS

9. Unserved or defectively served defendants are not required to join in or consent to the removal of the action under 28 U.S.C. § 1446(b)(2)(A). *See Destfino v. Reiswig*, 630 F.3d 952, 957 (9th Cir. 2011).

10. As the only served defendant in this action at the time of the filing of this Notice, Defendant need not obtain the joinder or consent of any other party to comply with 28 U.S.C. § 1446(b)(2)(A).

PAPERS FROM REMOVED ACTION

11. In accordance with 28 U.S.C. § 1446(a), copies of "all process, pleadings, and orders served upon" Defendant in the removed action are attached hereto as **Defendant's Exhibit A**, as stated in paragraph 1 of this Notice of Removal, *supra*.

NOTICE TO ADVERSE PARTIES AND STATE COURT

12. In accordance with 28 U.S.C. § 1446(d), Defendant will promptly provide written notice of removal to all adverse parties and will promptly file a copy of this Notice of Removal with the Clerk of the Superior Court of California, County of Sacramento.

REQUEST FOR SCREENING

13. Defendant requests that the Court screen the Complaint under 28 U.S.C. § 1915A and dismiss the Complaint or some portion of it if Plaintiff has raised claims that are legally “frivolous or malicious,” fail to state a claim upon which relief may be granted, or seek monetary relief from a Defendant who is immune from such relief. 28 U.S.C. §§ 1915A(b)(1)-(2).

14. Defendant requests thirty days to respond to the Complaint, if necessary, from the date of service of the screening order.

15. Filed concurrently with this Notice of Removal is a [Proposed] Order granting the thirty-day extension of time to respond to the Complaint after the date of the Court’s screening order.

Dated: December 28, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
GIAM M. NGUYEN
Supervising Deputy Attorney General

/s/ Alexandria Faura
ALEXANDRIA FAURA
Deputy Attorney General
Attorneys for Defendant
M. Burkhart

SA2022604254
65640918.docx

Exhibit A

SUMMONS

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: Officer Burkhardt
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF: Immanuel Price
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

FILED
Superior Court of California
FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
11/07/2022
reassigned
By Deputy
Case Number:
94-2022-00829112

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto, si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Sacramento County Superior Court
(El nombre y dirección de la corte es): 720 9th Street

CASE NUMBER: (Número del Caso):

Sacramento CA 95814

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Immanuel Price, P.O. Box 290066 Represa, CA 95671

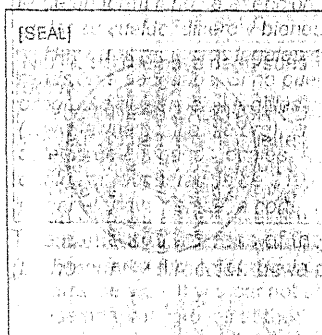
DATE: NOV - 7 2022
(Fecha)

Clerk, by
(Secretario)

R. SAN MIGUEL Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date)

SUMMONS

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Immanuel Price P.O. Box 1290066 Republic City, CA 95671 TELEPHONE NO.: FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FOR COURT USE ONLY Superior Court of California Sacramento 07/07/2022 reanriguel By: Deputy Case Number: 94-2022-00329112	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento STREET ADDRESS: 720 9th Street MAILING ADDRESS: CITY AND ZIP CODE: Sacramento 95814 BRANCH NAME:			
PLAINTIFF: Immanuel Price DEFENDANT: Officer Burkhardt, [REDACTED] [REDACTED] <input type="checkbox"/> DOES IT TO:			
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):			
Jurisdiction (check all that apply): <input checked="" type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER:	

- Plaintiff (name or names): Immanuel Price
 alleges causes of action against defendant (name or names): Officer Burkhardt, [REDACTED] [REDACTED]
- This pleading, including attachments and exhibits, consists of the following number of pages: 5
- Each plaintiff named above is a competent adult
 - except plaintiff (name):
 - ☒ a corporation qualified to do business in California
 - ☐ an unincorporated entity (describe):
 - ☐ a public entity (describe):
 - ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - ☐ other (specify):
 - except plaintiff (name):
 - ☒ a corporation qualified to do business in California
 - ☐ an unincorporated entity (describe):
 - ☐ a public entity (describe):
 - ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - ☐ other (specify):
- ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

CASE NUMBER

APPROPRIATE

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

- 5 Each defendant named above is a natural person

- a: ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

- (a) ☐ a public entity (describe):

- (5) ☐ Other (specify):

- c. except defendant (name):

- (1) ☐ a business organization, form unknown
- (2) ☐ a corporation
- (3) ☐ an unincorporated entity (describe):

- (4) ☐ a public entity (describe):

- (5) ☐ other (specify):

- b. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
- (2) ☐ a corporation
- (3) ☐ an unincorporated entity (describe):

4. ☐ a public entity (describe):

- e) ☐ other (specify):

- d. except defendant (name):

- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

- (4) ☐ a public entity (describe):

- (5) ☐ other (specify):

- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

3. The true names of defendants sued as Does are unknown to plaintiff.

- a. ☐ Doe defendants (specify Doe numbers): _____ were the agents or employees of other named defendants and acted within the scope of that agency or employment.

- b. ☐ Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.

7. ☐ Defendants who are joined under Code of Civil Procedure section 362 are (names):

8. This court is the proper court because

- a. ☐ at least one defendant now resides in its jurisdictional area.

- b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.

- c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.

- d. ☐ other (specify):

9. ☒ Plaintiff is required to comply with a claims statute, and

- a. ☐ has complied with applicable claims statutes, or

- b. ☐ is excused from complying because (specify):

PLD-PI-001

SHORT TITLE	CASE NUMBER
-------------	-------------

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
b. ☐ General Negligence
c. ☒ Intentional Tort
d. ☐ Products Liability
e. ☐ Premises Liability
f. ☐ Other (specify): ~~Retaliation~~ Retaliation

11. Plaintiff has suffered

- a. ☐ wage loss
b. ☐ loss of use of property
c. ☐ hospital and medical expenses
d. ☒ general damage
e. ☐ property damage
f. ☐ loss of earning capacity
g. ☐ other damage (specify): punitive Emotional Distress

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
(2) ☒ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
(2) ☐ in the amount of \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: 6/13/2022

Immanuel Price

TYPE OR PRINT NAME



SIGNATURE OF PLAINTIFF OR ATTORNEY

001

SHORT TITLE: <u>Price v Burkhardt</u>	CASE NUMBER
--	-------------

CAUSE OF ACTION—Intentional TortPage 1

(number)

ATTACHMENT TO ☐ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): Immanuel Pricealleges that defendant (name): Officer Burkhardt☐ Does _____ to _____

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): May 6, 2022at (place): CSP - SAC(description of reasons for liability): Retaliation

On May 6, 2022 Officer Burkhardt ('Defendant') used unnecessary and excessive force on my person by slamming my arms and wrists against a cell door tray slot in retaliation for my telling him that I had a 'waist chain chrono' when he came to escort me to a holding cage because I had expressed suicidal ideation to another officer. Burkhardt initially demanded that I submit to behind the back cuffing on several occasions, and since I was adamant that he bring back the waist chain to honor my injury which required waist chains he got mad and started to slam my arms and wrists against the tray slot causing intense pain, abrasions, bruising, fear and embarrassment. I was engaged in constitutionally protected activity when the defendant acted in retaliation to my protected activity and I believe unnecessary force being employed for exercise of protected activity would deter a person of ordinary firmness from engaging in that protected activity. The defendant had no other reason to use force except as retaliation for my expressing my need for medical accommodation.

Page 1 of 1

Code of Civil Procedure, § 425.12
www.courts.ca.gov**CAUSE OF ACTION—Intentional Tort**Form Approved for Optional Use
Judicial Council of California
PLD-PI-001(3) (Rev. January 1, 2007)For your protection and privacy, please press the Clear
This Form button after you have printed the form.

Print this form

Save this form

Clear this form

Immanuel Price
P.O. Box 276066
Revere, CA 95671

TELEPHONE NO.

FAX NO. (Optional):

ATTORNEY FOR (Name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

Sacramento

STREET ADDRESS: 720 9th Street

MAILING ADDRESS:

CITY AND ZIP CODE: Sacramento 95814

BRANCH NAME:

CASE NAME: Price v. ~~_____~~ ~~_____~~ Burkhardt

CIVIL CASE COVER SHEET

☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000)

Complex Case Designation

☐ Counter ☐ Joinder

Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

JUDGE:

DEPT.:

FILED
Superior Court Of California
Sacramento
07/07/2022
reassigned
By Deputy
Case Number:
34-2022-00329112

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)
☐ Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (94)
☐ Product liability (24)
☐ Medical malpractice (45)
☒ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☐ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☒ Large number of separately represented parties d. ☐ Large number of witnesses
b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☒ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): 1

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 6/13/2022

Immanuel Price

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

ORDER

Filed document is:
The Court will process the Submitted Proposed Petition
and the Request for Fee Waiver, deeming them filed None
pro forma on 7 July 7, 2022

DECLARATION OF MAILING
I hereby certify that I am not a party to
the within action, and that I deposited

I hereby certify that I am not a party to the within action, and that I deposited a copy of this document in sealed envelopes with first class postage prepaid, addressed to each party or the attorney of record in the U.S. Mail at 720 Ninth Street Sacramento, California.

DATED: 11-1-22
Deputy Clerk

Date: 10/1/74

PRESIDING JUDGE OR JUSTICE

M. BOWMAN

Clear this form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO STREET ADDRESS: 720 Ninth STREET MAILING ADDRESS: 720 Ninth STREET CITY AND ZIP CODE: Sacramento, CA 95814-1311 BRANCH NAME: Gordon D Schaber Courthouse PHONE NUMBER: (916) 874-5522	FOR COURT USE ONLY
SHORT TITLE: Price vs. Officer Burkhardt	
NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER TO APPEAR	CASE NUMBER: 34-2022-00329112-CU-PO-GDS

Hearing Date

The above entitled action has been set for a case management conference at 08:30 AM on 08/11/2023 in Department 43 in accordance with California Rules of Court 3.722. You must be familiar with the case and fully prepared to participate effectively in the case management conference.

Case Management Statement

All parties must file and serve a case management statement at least 15 calendar days before the case management conference. Parties are encouraged to file a single joint case management statement.

Minimum Requirements

Prior to the filing of the case management statement, the parties should have done the following:

- Served all parties named in the complaint within 60 days after the summons has been issued
- Ensured that all defendants and cross-defendants have answered, been dismissed, or had their defaults entered
- Met and conferred with all parties as required by CRC 3.724 to discuss and resolve issues set forth therein.

Tentative Ruling

Following its review of the case management statement(s), the court may determine that a case management conference is not necessary.

To determine whether an appearance is required, the parties must check the court's tentative rulings after 2:00 p.m. on the Court day before the Thursday calendar by accessing the court's internet website at www.saccourt.ca.gov/PublicCaseAccess/

Remote Appearances

Unless ordered to appear in person by the court, parties may appear remotely either telephonically or by video conference via the Zoom video/audio conference platform with notice to the court and all other parties in accordance with Code of Civil Procedure 367.75. If appearing remotely, parties are required to participate in their hearing using a device that has video and/or audio capability (i.e. computer, smartphone, or tablet). Although remote participation is not required, the court will presume all parties are appearing remotely for non-evidentiary civil hearings.

Certification Filed in Lieu of Case Management Statement

If parties in the action file a certification on a form provided by the court at least 15 calendar days prior to the date of the case management conference that the case is short cause (five hours or less of trial time), that the pleading stage is complete and that the case will be ready for trial within 60 days, the case will be exempted from any further case management requirements and will be set for trial within 60-120 days. The certification shall be filed in lieu of a case management statement.

Case Management Orders

At the case management conference, the court will consider whether the case should be ordered to judicial arbitration or referred to other forms of Alternative Dispute Resolution. Whether or not a case management conference is held, the court will issue a case management order shortly after the scheduled conference date.

Service of Case Management Notice

Unless otherwise ordered by the court, plaintiff shall serve a copy of this notice on any party to the complaint appearing after the court issued this notice. The cross-complainant shall have the same obligation with respect to the cross-complaint.

Compliance

Failure to comply with this notice or to appear at the case management conference may result in the imposition of sanctions (including dismissal of the case, striking of the answer, or payment of money).

Continuances

Case management conference will not be continued except on a showing of good cause. If your case management conference is continued on motion or by the court on its own motion all parties shall file and serve a new case management statement at least 15 calendar days before the continued case management conference.

Dated 11/02/2022




Thadd A. Blizzard, Judge of the Superior Court

FILED
Superior Court Of California,
Sacramento

07/07/2022 VL-110

reassigned
By _____, Deputy
Case Number:
34-2022-00329112

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: <u>Immanuel Price</u> FIRM NAME: STREET ADDRESS: <u>P.O. Box 290066</u> CITY: <u>Repos</u> TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		STATE BAR NUMBER: STATE: <u>CA</u> ZIP CODE: <u>95671</u> FAX NO.:
<input type="checkbox"/> COURT OF APPEAL, APPELLATE DISTRICT, DIVISION <input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>Sacramento</u> STREET ADDRESS: <u>720 9th street</u> MAILING ADDRESS: CITY AND ZIP CODE: <u>Sacramento 95814</u> BRANCH NAME:		
PLAINTIFF/PETITIONER: <u>Immanuel Price</u> DEFENDANT/RESPONDENT: <u>Officer Burkhardt</u> OTHER:		
REQUEST TO FILE NEW LITIGATION BY VEXATIOUS LITIGANT Type of case: <input type="checkbox"/> Limited Civil <input checked="" type="checkbox"/> Unlimited Civil <input type="checkbox"/> Small Claims <input type="checkbox"/> Family Law <input type="checkbox"/> Probate <input type="checkbox"/> Other		
CASE NUMBER:		

1. I have been determined to be a vexatious litigant and must obtain prior court approval to file any new litigation in which I am not represented by an attorney. Filing new litigation means (1) commencing any civil action or proceeding, or (2) filing any petition, application, or motion (except a discovery motion) under the Family or Probate Code.

2. I have attached to this request a copy of the document to be filed and I request approval from the presiding justice or presiding judge of the above court to file this document (name of document): Summons & Complaint - Price v Burkhardt

3. The new filing has merit because (Provide a brief summary of the facts on which your claim is based; the harm you believe you have suffered or will suffer; and the remedy or resolution you are seeking):

This complaint raises one claim of Retaliation against one defendant Correctional officer who used unnecessary and excessive force against me for expressing my need for medical accommodation. There was no legitimate need for Burkhardt to use force at all. I was injured as a result.

4. The new filing is not being filed to harass or to cause a delay because (give reasons): The new filing is not being filed to harass or cause delay because, this filing is a reasonable response to the defendant's unreasonable and retaliating use of force, that he employed in response to my expressed need for medical accommodation, which did not call for a use of force at all.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 6/13/2022

Immanuel Price

(TYPE OR PRINT NAME)



[Signature]
(SIGNATURE)

Page 1 of 1

FW-003**Order on Court Fee Waiver
(Superior Court)**

Clerk stamps date here when form is filed.

1 Person who asked the court to waive court fees:

Name: Immanuel Price
 Street or mailing address: P.O. BOX 290066
 City: Pepperack State: CA Zip: 95671

2 Lawyer, if person in 1 has one (name, firm name, address, phone number, e-mail, and State Bar number):

3 A request to waive court fees was filed on (date):

☐ The court made a previous fee waiver order in this case on (date): _____

Read this form carefully. All checked boxes ☒ are court orders.

FILED / ENDORSED

NOV - 2 2022

By: C. LAUSEN
DEPUTY CLERK

Fill in court name and street address:

Superior Court of California, County of
Sacramento
720 9th Street
Sacramento CA 95814

Fill in case number and name:

Case Number:

34-2022-00329112

Case Name:

Price v Burkhardt

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

4 After reviewing your: ☒ Request to Waive Court Fees ☐ Request to Waive Additional Court Fees the court makes the following orders:

a. ☒ The court grants your request, as follows:

(1) ☒ **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (Cal. Rules of Court, rules 3.55 and 8.818.) You do not have to pay the court fees for the following:

- Filing papers in superior court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's fee for attendance at hearing or trial, if the court is not electronically recording the proceeding and you request that the court provide an official reporter
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835
- Court fee for phone hearing
- Giving notice and certificates
- Sending papers to another court department

(2) ☐ **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (Cal. Rules of Court, rule 3.56.) You do not have to pay for the checked items.

- ☐ Jury fees and expenses
- ☐ Fees for court-appointed experts
- ☐ Other (specify): _____
- ☐ Fees for a peace officer to testify in court
- ☐ Court-appointed interpreter fees for a witness



Case Number:

Your name: _____

- b.
- ☐
- The court denies your fee waiver request because:

Warning! If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

- (1) Your request is incomplete. You have
- 10 days**
- after the clerk gives notice of this Order (see date of service
- ☐
- on next page) to:

- Pay your fees and costs, or
- File a new revised request that includes the incomplete items listed:

☐ Below ☐ On Attachment 4b(1)

- (2)
- ☐
- The information you provided on the request shows that you are not eligible for the fee waiver you requested for the reasons stated:
- ☐
- Below
- ☐
- On Attachment 4b(2)

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)* (form FW-006). You have **10 days** after the clerk gives notice of this order (see date of service below) to:

- Pay your fees and costs in full or the amount listed in c below, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

- c. (1)
- ☐
- The court needs more information to decide whether to grant your request. You must go to court on the date on page 3. The hearing will be about the questions regarding your eligibility that are stated:

☐ Below ☐ On Attachment 4c(1)

- (2)
- ☐
- Bring the items of proof to support your request, if reasonably available, that are listed:

☐ Below ☐ On Attachment 4c(2)

This is a Court Order.

Your name: _____

Case Number: _____

Name and address of court if different from above: _____

Hearing
Date

Date: _____

Time: _____

Dept.: _____

Room: _____

Warning! If item c(1) is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

Date: 11-2-2022

[Signature]
S. LUEAS

(check one):

☒ Judicial Officer☐

Clerk, Deputy

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

Clerk's Certificate of Service

I certify that I am not involved in this case and (check one):

- ☐ I handed a copy of this Order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.
- ☒ This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (city): Sacramento, California, on the date below.
- ☐ A certificate of mailing is attached.

Date: 11-2-2022Clerk, by: *[Signature]*

Name: _____

C. CLAUSEN

Deputy

This is a Court Order.

Exhibit B



Tue 11/29/2022 3:21 PM

CDCR SAC Litigation Coordinator <CDCRSACLitigationCoordinator@cdcr.ca.gov>

Summons - Immanuel Price V Officer Burkhart Case no. 34-202200329112

To ☐ EDSERVICE

You forwarded this message on 12/9/2022 3:42 PM.



PRICE v. BURKHART Summons.pdf
2 MB

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hello,

We were served the attached summons today, 11/29/22 by the Sacramento County Sheriff department. Summons - Immanuel Price V Officer Burkhart Case no. 34-202200329112.
Please let me know if you have any questions.

T. Feryance
Correctional Counselor II Specialist
Litigation Coordinator
California State Prison, Sacramento
(916) 985-8610 Ext. 3011

CERTIFICATE OF SERVICE

Case Name: **Price, Immanuel v. Officer
Berkhart**

Sacramento Superior
Court Case No. **34-2022-00329112**

I hereby certify that on **December 28, 2022**, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(A) (FEDERAL QUESTION); REQUEST FOR SCREENING OF THE COMPLAINT PURSUANT TO 28 U.S.C. § 1915A

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on **December 28, 2022**, at Baldwin Park, California.

J. Garcia
Declarant for eFiling

/s/ J. García
Signature

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On **December 28, 2022**, the foregoing document(s) have been mailed in the Office of the Attorney General's internal mail system, by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Immanuel C. Price, CDCR #G51247
Salinas Valley State Prison
P.O. Box 1020
Soledad, CA 93960-1020
In Pro Per

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on **December 28, 2022**, at Los Angeles, California.

K. Yeoun
Declarant for Service by U.S. Mail

K. Yeoun
Signature